



Federal Communications Commission  
Washington, D.C. 20554

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**DA 10-352**

Mary N. O'Connor, Esq.  
Wilkinson Barker Knauer LLP  
2300 N Street, N.W., Suite 700  
Washington, DC 20337-1128

Rudolph J. Geist, Esq.  
RJGLaw LLC  
7910 Woodmont Ave. Suite 1400  
Bethesda, MD 20814

Todd D. Gray, Esq.  
Dow Lohnes PLLC  
1200 New Hampshire Avenue, N.W.  
Washington, DC 20036-6802

Dear Counsel:

As is further explained herein, by this letter we hereby terminate the waiver granted to WHTV Broadcasting Corp. d/b/a/ Digital TV One (Digital TV One) to opt out of the transition of the 2500-2690 MHz band, and dismiss several pending petitions for reconsideration of grant of that waiver as moot.

On September 20, 2005, Digital TV One filed a request seeking a permanent waiver of Sections 27.1230-27.1239 of the Commission's Rules to allow Digital TV One and its licensees/lessors to opt-out of the transition of the 2500-2690 MHz band.<sup>1</sup> The Wireless Telecommunications Bureau (Bureau) granted this waiver request on January 29, 2007.<sup>2</sup> On February 28, 2007, Sistema Universitario Ana G. Mendez (Mendez)<sup>3</sup> and the Hispanic Information and Telecommunications Network, Inc. (HITN)<sup>4</sup> filed petitions for reconsideration of the Bureau's decision granting Digital TV One's waiver request.

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<sup>1</sup> Petition for Waiver (filed Sept. 30, 2005) (Waiver Request).

<sup>2</sup> WHTV Broadcasting Corp. d/b/a Digital TV One and Caribbean University, *Memorandum Opinion and Order*, 22 FCC Rcd 1314 (WTB 2007) (*MO&O*). The Bureau granted waivers for the following lessees/lessors: Station WLX321 (Channels A1-A4/ Catholic Archdiocese of San Juan); Station WLX323 (Channels B1-B4/University of Puerto Rico); Station WLX315 (Channels C1-C4/Caribbean University); Station WLX322 (Channels D1-D4/ Puerto Rico Medical Association); Station WHT654 (E1-E4/Victor Ginorio Gomez); Station WHT655 (Channels F1-F4/Fundacion Sala, Inc.); Station WNTF632 (Channel H1/ Fundacion Sala, Inc.); Station WNTB423 (Channel H2/ Fundacion Sala, Inc.); and Station WNTB467 (Channel H3/ Fundacion Sala, Inc.). *Id.* at 1314 n.2.

<sup>3</sup> Sistema Universitario Ana G. Mendez, Inc. Petition for Reconsideration (filed Feb. 28, 2007).

<sup>4</sup> Hispanic Information and Telecommunications Network, Inc., Petition for Reconsideration (filed Feb. 28, 2007).

Subsequent to the release of the *MO&O*, the license for Station WLX323 was assigned to HITN Puerto Rico, LLC.<sup>5</sup> On June 11, 2007, the remaining licenses and leases in question were assigned to Nextel Spectrum Acquisition Corporation (NSAC).<sup>6</sup> The licenses and leases held by NSAC were subsequently assigned to NSAC, LLC.<sup>7</sup>

On January 16, 2009, NSAC, LLC filed a transition initiation plan for Basic Trading Area (BTA) 488, San Juan, Puerto Rico, indicating that it intended to transition all of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) licenses in BTA 488 to the new band plan and technical rules on or before January 10, 2010, including the licenses listed in Digital TV One's September 20, 2005 waiver request, and licenses held by HITN and Mendez.<sup>8</sup>

On August 19, 2009, Digital TV One filed a pleading returning the waiver for cancellation.<sup>9</sup> In the Cancellation Request, Digital TV One reports that the purchase agreement allowed Digital TV One to continue operating until July 31, 2009.<sup>10</sup> Digital TV One reports that it has ceased operations and that the waiver is no longer necessary.<sup>11</sup>

Since Digital TV One no longer holds any of the licenses or leases to which the waiver applied, and they are now held by entities that wish to transition to the new band plan and technical rules, we find terminating the waiver issued to Digital TV One to be in the public interest. We also dismiss the petitions for reconsideration filed by Mendez and HITN as moot.

Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 27.1231(g) of the Commission's Rules, 47 C.F.R. § 27.1231(g), that the *Memorandum Opinion and Order* released by the Wireless Telecommunications Bureau on January 29, 2007 (DA 07-295) IS TERMINATED, effective upon release of this letter, and the Petitions for Reconsideration filed by Sistema Universitario Ana G. Mendez, Inc.

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<sup>5</sup> See File No. 0002928020 (consummated Feb. 7, 2007).

<sup>6</sup> See File Nos. 0002901565, 0002978660, 0002998545, 0003062362, 0003067033 (consummated Jun. 11, 2007).

<sup>7</sup> See File Nos. 0003612333, 0003612465, 0003619291, 0003612934, 0003612993 (consummated Oct. 8, 2008).

<sup>8</sup> Letter from Nadja Sodos-Wallace, Clearwire Corporation to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 06-136 (filed Jan. 16, 2009) at 1 and Exhibit A.

<sup>9</sup> Return of Waiver for Cancellation, WHTV Broadcasting Corp. d/b/a/ Digital TV One (filed Aug. 19, 2009) (Cancellation Request).

<sup>10</sup> Cancellation Request at 2.

<sup>11</sup> *Id.*

and the Hispanic Information and Telecommunications Network, Inc. on February 28, 2007 ARE  
DISMISSED AS MOOT.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the  
Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau

cc: Nadja Sodos-Wallace, Esq.  
Clearwire Corporation  
815 Connecticut Avenue, N.W., Suite 610  
Washington, D.C. 20006